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9 UNITED STATES DISTRICT COURT  
10 WESTERN DISTRICT OF TEXAS  
11 AT SAN ANTONIO

12 THOMAS H.B. STEWART,

CASE NO. 5:22-CV-00664

13 Plaintiff,

14 vs.

15 BEXAR COUNTY, BEXAR COUNTY  
16 SHERIFF JAVIER SALAZAR; SHERIFF'S  
17 DEPUTY VILLA, JOHN DOES (1-10),

18 Defendants.

19 **FEDERAL COMPLAINT WITH JURY DEMAND**

20 COMES NOW, the above-named Plaintiff by his attorney of record, Derek A. Jordan,  
21 and as for his claims of action against the above-named Defendants, the Plaintiff alleges and  
22 shows claims for relief as follows:  
23  
24  
25

**INTRODUCTION**

This is a federal civil rights action under the Fourth, Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States and Title 42 of the United States Code, Section 1983. Plaintiff Thomas H.B. Stewart brings this action to obtain compensatory damages, punitive damages, attorneys' fees, costs, and other equitable relief for the serious personal injuries he was subjected to because of significant and life-threatening trauma while in custody of, and due to the deliberate indifference of, sheriff's deputies of the Bexar County Sheriff's Office. (hereafter "BCSO.")

**JURISDICTION AND VENUE**

1. This action arises under the Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution and Title 42 of the United States Code, §1983. Jurisdiction exists pursuant to 28 U.S.C. §1331 and §1343 based on 42 U.S.C. §1983 and questions of federal constitutional law.
2. Venue is proper in the Western District of Texas pursuant to Title 28 of the United States Code, §1391(b) as all the events and conduct complained herein all occurred in the Western District of Texas.

**PARTIES**

**PLAINTIFF**

3. Plaintiff THOMAS H.B. STEWART is an individual over the age of majority who was a resident of Bexar County, Texas, at the time of the incident.

**DEFENDANTS**

4. Defendant BEXAR COUNTY (“Defendant County”) is a political subdivision of the State of Texas, acting under color of state law, and is a person for the purposes of a 42 U.S.C. 1983 action. Defendant is responsible for the policies, practices, and procedures of its Sheriff’s Office and individual deputies. It can be served with summons upon Bexar County Judge Nelson Wolff, 101 W. Nueva, 10<sup>th</sup> Floor, San Antonio, Texas 78204.

5. Defendant Sheriff JAVIER SALAZAR (“Defendant Sheriff”) is the head law enforcement officer and policy-maker for the Bexar County Sheriff’s Office. Defendant is responsible for the policies, practices, and procedures of its Sheriff’s Office and individual deputies. Defendant Sheriff can be served with summons at: Bexar County Sheriff Javier Salazar, 200 N. Comal Street, San Antonio, Texas 78207.

6. Defendant DEPUTY VILLA, and his successors in interest, was a sheriff’s deputy for the Bexar County Sheriff’s Office during all times material.

- 1 7. Defendants JOHN DOES were acting under color of state law and in the course and  
2 scope of their employment as law enforcement officers with Bexar County Sheriff's  
3 Office at all times material.  
4

5  
6 **FACTUAL BACKGROUND**

- 7 8. Plaintiff was rudely awakened in the early morning hours of June 25, 2021, because  
8 his then-girlfriend of two months was punching and slapping him as hard as she could  
9 in the bed they shared in a second-floor apartment at 14006 Potranco Road in Bexar  
10 County.  
11  
12 9. The girlfriend was enraged because she had found text messages on Plaintiff's phone  
13 sent by another woman.  
14  
15 10. The Plaintiff's female cousin had sent the text messages, which were innocent in  
16 nature.  
17  
18 11. Plaintiff left the apartment because of the assault so he could take a walk and calm  
19 down. At no point did he retaliate against the girlfriend.  
20  
21 12. Plaintiff then called 911 and deputies arrived and told the girlfriend to let Plaintiff in  
22 and then leave for a while so Plaintiff could get his dog and pack up personal items.  
23  
24 13. Plaintiff was waiting for his father to come pick him up when the girlfriend returned a  
25 couple of hours later and began pounding on the locked door and threatened to kick it  
down to get in.

1 14. The girlfriend called 911.

2 15. Bexar County Sheriff's Deputy Villa, badge number 1057, arrived around 10 a.m.

3 16. Villa said Plaintiff had to let the girlfriend in.

4 17. Plaintiff told Deputy Villa that if the girlfriend had a key, she was more than welcome  
5 to come in, but Plaintiff told the deputy he couldn't force Plaintiff to unlock the door.  
6

7 18. Deputy Villa returned 10 minutes later and told Plaintiff that there was a warrant for  
8 his arrest.

9 19. Plaintiff denied that the arrest warrant existed.

10 20. Plaintiff asked to see the warrant, and Deputy Villa would not show it to him.

11 21. Plaintiff told Deputy Villa that he suffers from Post-Traumatic Stress Disorder.

12 22. Then, Plaintiff – who, due to the anxiety he suffers, was scared – stepped out of the  
13 apartment and ran towards the steps.  
14

15 23. As Plaintiff began to head down the stairs outside the apartment door, Deputy Villa  
16 discharged his Taser and hit Plaintiff in the back.  
17

18 24. Deputy Villa did not warn Plaintiff that he was going to fire his Taser.

19 25. Plaintiff fell down the concrete stairs and landed on his head.

20 26. Plaintiff heard his back crack during the fall.

21 27. Plaintiff cracked his fifth lumbar vertebra, or L5 vertebrae, in the fall, and is still  
22 receiving medical attention for his injuries, including rhizotomies to burn nerve  
23 endings to reduce pain.  
24  
25

1 28. The fall also left Plaintiff with a hugely swollen forehead, two black eyes and  
2 numerous scrapes and bruises.

3 29. Immediately after Plaintiff fell, he told Deputy Villa that he had broken his back in  
4 the fall.

5 30. Regardless, Deputy Villa kneeled on Plaintiff's already-injured back to put handcuffs  
6 on Plaintiff.

7 31. An ambulance arrived and the paramedics advised deputies that Plaintiff needed to go  
8 to the hospital.

9 32. Against the advice of the medics, Defendants Deputy Villa and Does took Plaintiff to  
10 jail in a patrol car.

11 33. At the time of the incident, Plaintiff worked as the lead diesel technician at  
12 Montgomery Iron and Metal Works in San Antonio where he earned roughly \$25 an  
13 hour repairing diesel engines.

14 34. Plaintiff has worked as a mechanic since he was 15.

15 35. Because of his injuries received during the incident, Plaintiff no longer can work as a  
16 mechanic.

17 36. Plaintiff's back pain is constant, and he cannot walk more than one mile per day due  
18 to the pain.

1 37. Plaintiff has seen doctors, physical therapists, pain management specialists and  
2 massage therapists who've given Plaintiff numerous injections, MRIs, massages and  
3 other treatments in a yet-unsuccessful effort to end his back pain.  
4

5 38. A spinal surgeon has advised Plaintiff he will need spinal fusion surgery.

6 39. Plaintiff needs physical therapy two to three times a week.  
7

8 **FIRST CAUSE OF ACTION**

9 Title 42, United States Code, Section 1983

10 Excessive Force & Unlawful Detention against all Defendants  
11

12 40. Plaintiff re-alleges, and incorporate by reference, the allegations of the preceding  
13 paragraphs.

14 41. 42 U.S.C. § 1983 provides that:

15 Every person, who under color of any statute, ordinance, regulation, custom or  
16 usage of any state or territory or the District of Columbia subjects or causes to be  
17 subjected any citizen of the United States or other person within the jurisdiction  
18 thereof to the deprivation of any rights, privileges or immunities secured by the  
constitution and law shall be liable to the party injured in an action at law, suit in  
equity, or other appropriate proceeding for redress . . .

19 42. Plaintiff sues Deputy Villa under 42 U.S.C. § 1983 for violations of Plaintiff's Fourth

20 Amendment rights in that a) Villa employed unnecessary, unjustified and excessive  
21 force and restrained Plaintiff's liberty; and b) he unlawfully arrested Plaintiff.  
22

23 43. Any reasonable sheriff's deputy knew or should have known of these rights at the  
24 time of the complained of conduct as they were clearly established at that time.  
25

1       44. Defendant unlawfully detained Plaintiff by objectively unreasonable means  
2       thereby unreasonably restraining Plaintiff of his freedom.

3       45. That Defendant acted under color of law in his capacity as sheriff's deputy and his  
4       acts or omissions were conducted within the scope of his official duties or employment.

5       46. As a proximate result of Defendant's unlawful conduct, Plaintiff has suffered  
6       actual physical and emotional injuries, and other damages and losses as described herein  
7       entitling him to compensatory and special damages, in amounts to be determined at trial.

8       As a further result of the Defendants' unlawful conduct, Plaintiff has incurred special  
9       damages, including medically related expenses and may continue to incur further  
10      medically and other special damages related expenses, in amounts to be established at  
11      trial.

12      47. In addition to compensatory, economic, consequential and special damages,  
13      Plaintiff is entitled to punitive damages against the individually named Defendants under  
14      42 U.S.C. § 1983, in that the actions of each of these individual Defendants have been  
15      taken maliciously, willfully or with a reckless or wanton disregard of the constitutional  
16      rights of Plaintiff.  
17      rights of Plaintiff.

18  
19  
20                   **SECOND CAUSE OF ACTION:**

21                           Municipal Liability

22      48. Sheriff Javier Salazar has been the Sheriff of Bexar County since he took office in  
23      January 2017.  
24  
25



1 49. As the Sheriff of Bexar County, Sheriff Salazar is the policymaker for Bexar County  
2 in the area of law enforcement.

3 50. Bexar County – through its policymaker, Sheriff Salazar – is aware that its use-of-  
4 force policy was deficient.

5 51. The ambiguities and deficiencies in BCSO’s use-of-force policy include, but are not  
6 limited, to:  
7

8 52. Permitting an individual deputy to use a subjective standard to determine the use of  
9 force that the deputy believes is reasonable, instead of utilizing an objective-  
10 reasonableness standard;  
11

12 53. Failing to clearly and unambiguously require officers to use only measured,  
13 ascending, and proportional force;

14 54. Failing to adequately inform officers when force can be used to seize persons who  
15 have not committed and are not suspected of committing crimes; and  
16

17 55. Failing to direct deputies to avoid putting themselves in a position where force or  
18 deadly force becomes necessary.

19 56. Sheriff Salazar and Bexar County failed to adequately discipline Sheriff’s Deputies  
20 following the use of force and lethal force against unarmed citizens, thus perpetuating  
21 the belief amongst sheriff’s deputies that their misconduct will not adversely affect  
22 their employment.  
23  
24  
25

**THIRD CAUSE OF ACTION**

Title 42, United States Code, Section 1983

Unreasonable Search

57. Plaintiff re-alleges, and incorporate by reference, the allegations of the preceding paragraphs.

58. That Thomas H.B. Stewart had a constitutionally protected right to be free from unreasonable searches.

59. Any reasonable sheriff's deputy knew or should have known of these rights at the time of the complained of conduct as they were clearly established at that time.

60. That, as set forth in the preceding paragraphs, DOE deprived Thomas H.B. Stewart of his constitutionally protected right to be free from unreasonable searches.

61. That Defendant intentionally caused the deprivation of Thomas H.B. Stewart's right to free from unreasonable searches.

62. That Defendant acted under color of law in their capacity as sheriff's deputies and their acts or omissions were conducted within the scope of their official duties or employment.

63. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered actual physical and emotional injuries, and other damages and losses as described herein entitling him to compensatory and special damages, in amounts to be determined at trial.

As a further result of the Defendants' unlawful conduct, Plaintiff has incurred special

1 damages, including medically related expenses and may continue to incur further  
2 medically and other special damages related expenses, in amounts to be established at  
3 trial.

4  
5 64. In addition to compensatory, economic, consequential and special damages,  
6 Plaintiff is entitled to punitive damages against each of the individually named  
7 Defendants under 42 U.S.C. § 1983, in that the actions of each of these individual  
8 Defendants have been taken maliciously, willfully or with a reckless or wanton disregard  
9 of the constitutional rights of Plaintiff.  
10

11  
12 **FOURTH CAUSE OF ACTION**

13 Title 42, United States Code, Section 1983

14 Deficient Hiring and Continued Employment Policy

15 65. Plaintiff re-alleges and incorporate by reference, the allegations of the preceding  
16 paragraphs.

17 66. That, at all material times hereto, Bexar County was a “person” for purposes of  
18 Title 42, of the United States Code, Section 1983.

19 67. The acts or omissions of Defendants as described herein intentionally deprived  
20 Plaintiff of his constitutional and statutory rights and caused him other damages.

21 68. Defendants are not entitled to qualified immunity for the complained of conduct.  
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69. That Bexar County's deficient policy with respect to hiring and continued employment of Deputy Villa caused the violation of Thomas H.B. Stewart's constitutional rights and the injuries and damages to Plaintiff.

70. In light of the duties and responsibilities of those sheriff's deputies that participate in arrests and preparation of deputies reports on alleged crimes, the need for specialized training and supervision is so obvious, and the inadequacy of training and/or supervision is so likely to result in the violation of constitutional and federal rights such as those described herein that the failure to provide such specialized training and supervision is deliberately indifferent to those rights.

71. The deliberately indifferent training and supervision provided by Defendants resulted from a conscious or deliberate choice to follow a course of action from among various alternatives available to Defendants and were moving forces in the constitutional and federal violation injuries complained of by Plaintiff.

72. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered actual physical and emotional injuries, and other damages and losses as described herein entitling him to compensatory and special damages, in amounts to be determined at trial. As a further result of the Defendants' unlawful conduct, Plaintiff has incurred special damages, including medically related expenses and may continue to incur further medically and other special damages related expenses, in amounts to be established at trial.

## FIFTH CAUSE OF ACTION

Title 42, United States Code, Section 1983

### Failure to Train Policy

1 73. Plaintiff re-alleges and incorporate by reference, the allegations of the preceding  
2 paragraphs.

3 74. That, at all material times hereto, Bexar County was a “person” for purposes  
4 of Title 42, of the United States Code, Section 1983.

5 75. Bexar County’s official policies with respect to training of its sheriff’s deputies  
6 were/are inadequate. Plaintiff suffered injury due to this inadequate training.

7 76. The acts or omissions of Defendants as described herein intentionally deprived  
8 Plaintiff of his constitutional and statutory rights and caused him other damages.

9 77. Defendants are not entitled to qualified immunity for the complained of conduct.

10 78. That Bexar County’s deficient policy with respect to failure to train deputies  
11 caused the violation of Thomas H.B. Stewart’s constitutional rights and the injuries and  
12 damages to Plaintiff.

13 79. In light of the duties and responsibilities of those sheriff’s deputies that participate  
14 in arrests and preparation of deputies reports on alleged crimes, the need for specialized  
15 training and supervision is so obvious, and the inadequacy of training and/or supervision  
16 is so likely to result in the violation of constitutional and federal rights such as those  
17 described herein that the failure to provide such specialized training and supervision is  
18 deliberately indifferent to those rights.

19 80. The deliberately indifferent training and supervision provided by Defendants  
20 resulted from a conscious or deliberate choice to follow a course of action from among  
21 various alternatives available to Defendant and were moving forces in the constitutional  
22 and federal violation injuries complained of by Plaintiff.  
23  
24  
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1       81. As a proximate result of Defendants’ unlawful conduct, Plaintiff has suffered  
2 actual physical and emotional injuries, and other damages and losses as described herein  
3 entitling him to compensatory and special damages, in amounts to be determined at trial.  
4 As a further result of the Defendants’ unlawful conduct, Plaintiff has incurred special  
5 damages, including medically related expenses and may continue to incur further  
6 medically and other special damages related expenses, in amounts to be established at  
7 trial.  
8

9                               **SIXTH CAUSE OF ACTION**

10                           Title 42, United States Code, Section 1983

11                               Failure to Discipline Policy

12       82. Plaintiff re-alleges and incorporate by reference, the allegations of the preceding  
13 paragraphs.

14       83. That, at all material times hereto, Bexar County was a “person” for purposes  
15 of Title 42, of the United States Code, Section 1983.

16       84. Bexar County’s official policies with respect to the discipline of its sheriff’s  
17 deputies were/are inadequate with respect to unlawful detentions and unreasonable  
18 searches.  
19

20       85. That Bexar County’s deficient policy with respect to failure to discipline deputies  
21 caused the violation of Thomas H.B. Stewart’s constitutional rights and the injuries and  
22 damages to Plaintiff  
23  
24  
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1 Defendants knowingly failed to provide or get necessary medical care for Plaintiff's  
2 serious medical need in deliberate indifference to the risk of serious harm.

3 Plaintiff suffered injuries as a result of ,excessive and brutal use of force. Following  
4 Defendant's assault, Plaintiff requested medical treatment. Defendants refused to provide  
5 Plaintiff with medical care the entire time Plaintiff was in the care, custody, and control of  
6 Defendants.  
7

8 Defendant Sheriff and Defendant County failed to provide basic human needs to Plaintiff  
9 by subjecting him to intentional assault by sheriff deputies and then by declining to provide any  
10 medical treatment.

11 Plaintiff's resulting harm was a direct consequence of Defendants' failure to provide  
12 necessary and immediate medical care to Plaintiff.  
13

## 14 15 **EIGHTH CAUSE OF ACTION**

### 16 Assault and Battery

17 Deputy Villa attempted and did cause harmful, offensive, and violent physical contact  
18 with Mr. Sample. As a direct result of Mr. Villa's assault as alleged in this complaint, Defendant  
19 experienced injuries and harm, all of which were reasonably foreseeable, and some of which may  
20 be permanent:  
21

22 a. A broken L5 vertebrae

23 b. Pain, discomfort, suffering, and emotional harm

24 c. Inconvenience and interference with usual and everyday activities  
25



1 Defendant requests fair compensation for his harm in an amount to be determined by the  
2 jury to be reasonable.

3 Defendant reserves his right to amend this complaint to adjust his request for  
4 compensation based on the known extent of his current and future injuries and harm caused by  
5 Deputy Villa's behavior, as well as to add additional defendants and new claims as new  
6 information is learned in discovery.  
7

8  
9 **NINTH CAUSE OF ACTION**

10 Negligence

11 As alleged in this complaint, Deputy Villa was negligent in failing to exercise reasonable  
12 care during his interaction with Defendant. Defendant was harmed and injured when he was  
13 assaulted by Deputy Villa during their interaction. Defendant's injuries, the full extent of which  
14 are still not known, were due in whole or in part to the acts and omissions of Deputy Villa, who  
15 was negligent in one or more  
16

17 respects:

- 18 a. In failing to act as a reasonably prudent person  
19 b. In failing to seek help or assistance from another deputy  
20 c. In failing to refrain from assaulting Defendant.  
21

22  
23 **DEMAND FOR JUDGMENT**

24 87. **WHEREFORE**, the Plaintiff demands judgment against the Defendants as  
25 follows:

- a. In favor of the Plaintiff and against Bexar County and Deputy Villa as set forth in the preceding paragraphs, jointly and severally, for compensatory and special damages;
- b. In favor of the Plaintiff and against Bexar County as set forth in the preceding paragraphs, for punitive damages;
- c. For all costs, disbursements, interest and reasonable attorneys' fees pursuant to Title 42 of the United States Code, Section 1988, and for such other relief as the Court deems just and equitable.

**PLAINTIFF HEREBY DEMANDS A JURY TRIAL OF THIS ACTION  
ON ALL ISSUES SO TRIABLE.**

Dated this 24<sup>TH</sup> day of June 2022

*s/Derek Alan Jordan*

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